

AMENDED IN SENATE APRIL 8, 2014

AMENDED IN SENATE MARCH 24, 2014

SENATE BILL

No. 1064

Introduced by Senator Hill

February 18, 2014

An act to amend Section 960 of, and to add Section 765 to, the Public Utilities Code, relating to public utility safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1064, as amended, Hill. Public Utilities Commission: railroads: natural gas pipelines: safety.

Existing law provides that the Public Utilities Commission has certain responsibilities for the inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads, including public mass transit guideways, and for enforcement of state and federal laws, regulations, orders, and directives relative to ~~railroad~~ *rail* safety.

The Natural Gas Pipeline Safety Act of 2011 designates the commission as the state authority responsible for regulating and enforcing federal law with respect to intrastate gas pipeline transportation and pipeline facilities. When the federal National Transportation Safety Board (NTSB) submits a safety recommendation letter concerning gas pipeline safety to the commission, the act requires the commission, within 90 days, to provide the NTSB with a formal written response to each recommendation, as specified. When the NTSB issues a safety recommendation letter concerning any commission-regulated gas pipeline facility to the United States Department of Transportation, the federal Pipeline and Hazardous Materials Safety Administration (PHMSA), a gas corporation, or to the

commission, or the PHMSA issues an advisory bulletin concerning any commission-regulated gas pipeline facility, the act requires the commission to determine if implementation of the recommendation or advisory is appropriate and requires the commission, in that case, to issue orders or adopt rules to implement the safety recommendations or advisory as soon as practical and to consider whether specified alternatives exist to address the safety issue that the recommendation or advisory addresses. The act additionally requires the commission to include a detailed description of any action taken on the recommendations or advisory in a specified annual report to the Legislature.

This bill would enact similar provisions applicable to NTSB safety recommendations and Federal Transit Administration (FTA) safety advisories concerning ~~railroads~~ *rail facilities*. With respect to natural gas pipelines, if the commission receives a correspondence from the NTSB that indicates that a recommendation of the NTSB has been closed following an action that the NTSB finds unacceptable, the bill would require this fact to be noted in the annual report submitted to the Legislature.

Under existing law, a violation of an order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because this bill would require the commission to issue orders or adopt rules to implement any safety recommendation of the NTSB and safety advisories of the FTA relative to ~~railroads~~ *rail facilities* that the commission determines to be appropriate, and a violation of those orders or rules would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 765 is added to the Public Utilities Code,
- 2 to read:

1 765. (a) When the federal National Transportation Safety
2 Board (NTSB) submits a safety recommendation letter concerning
3 ~~railroad~~ *rail* safety to the commission, the commission shall provide
4 the NTSB with a formal written response to each recommendation
5 no later than 90 days after receiving the letter. The response shall
6 state one of the following:

7 (1) The commission's intent to implement the recommendations
8 in full, with a proposed timetable for implementation of the
9 recommendations.

10 (2) The commission's intent to implement part of the
11 recommendations, with a proposed timetable for implementation
12 of those recommendations, and detailed reasons for the
13 commission's refusal to implement those recommendations that
14 the commission does not intend to implement.

15 (3) The commission's refusal to implement the
16 recommendations, with detailed reasons for the commission's
17 refusal to implement the recommendations.

18 (b) If the NTSB issues a safety recommendation letter
19 concerning any commission-regulated ~~railroad~~ *rail* facility to the
20 United States Department of Transportation, the Federal Transit
21 Administration, to a commission-regulated rail operator, or to the
22 commission, or if the Federal Transit Administration issues a safety
23 advisory concerning any commission-regulated ~~railroad~~ *rail*
24 facility, the commission shall determine if implementation of the
25 recommendation or advisory is appropriate. The basis for the
26 commission's determination shall be detailed in writing and shall
27 be approved by a majority vote of the commission.

28 (c) If the commission determines that a safety recommendation
29 made by the NTSB is appropriate, or that action concerning a
30 safety advisory is necessary, the commission shall issue orders or
31 adopt rules to implement the safety recommendations or advisory
32 as soon as practicable. In implementing the safety recommendation
33 or advisory, the commission shall consider whether a more
34 effective, or equally effective and less costly, alternative exists to
35 address the safety issue that the recommendation or advisory
36 addresses.

37 (d) Any action taken by the commission on a safety
38 recommendation letter or safety advisory shall be reported
39 annually, in detail, to the Legislature with the report required by
40 Section 321.6. Any correspondence from the NTSB indicating that

1 a recommendation has been closed following an action that the
2 NTSB finds unacceptable shall be noted in the report required by
3 Section 321.6.

4 SEC. 2. Section 960 of the Public Utilities Code is amended
5 to read:

6 960. (a) When the federal National Transportation Safety
7 Board (NTSB) submits a safety recommendation letter concerning
8 gas pipeline safety to the commission, the commission shall provide
9 the NTSB with a formal written response to each recommendation
10 not later than 90 days after receiving the letter. The response shall
11 state one of the following:

12 (1) The commission's intent to implement the recommendations
13 in full, with a proposed timetable for implementation of the
14 recommendations.

15 (2) The commission's intent to implement part of the
16 recommendations, with a proposed timetable for implementation
17 of those recommendations, and detailed reasons for the
18 commission's refusal to implement those recommendations that
19 the commission does not intend to implement.

20 (3) The commission's refusal to implement the
21 recommendations, with detailed reasons for the commission's
22 refusal to implement the recommendations.

23 (b) If the NTSB issues a safety recommendation letter
24 concerning any commission-regulated gas pipeline facility to the
25 United States Department of Transportation, the federal Pipeline
26 and Hazardous Materials Safety Administration (PHMSA), a gas
27 corporation, or to the commission, or the PHMSA issues an
28 advisory bulletin concerning any commission-regulated gas
29 pipeline facility, the commission shall determine if implementation
30 of the recommendation or advisory is appropriate. The basis for
31 the commission's determination shall be detailed in writing and
32 shall be approved by a majority vote of the commission.

33 (c) If the commission determines that a safety recommendation
34 made by the NTSB is appropriate or that action concerning an
35 advisory bulletin is necessary, the commission shall issue orders
36 or adopt rules to implement the safety recommendations or
37 advisory as soon as practicable. In implementing the safety
38 recommendation or advisory, the commission shall consider
39 whether a more effective, or equally effective and less costly,

1 alternative exists to address the safety issue that the
2 recommendation or advisory addresses.

3 (d) Any action taken by the commission on a safety
4 recommendation letter or advisory bulletin shall be reported
5 annually, in detail, to the Legislature with the report required by
6 Section 321.6. Any correspondence from the NTSB that indicates
7 that a recommendation of the NTSB has been closed following an
8 action that the NTSB finds unacceptable shall be noted in the report
9 required by Section 321.6.

10 SEC. 3. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.